HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 24267 OF 1998

Between:

The Depot Manager, APSRTC, Nirmal Depot, Adilabad District.

...Petitioner

AND

1. B. Hari, Conductor, and one another

.....Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 24267 OF 1998

ORAL ORDER:

Heard Smt. Rajani Reddy, the learned counsel for the petitioner-Corporation and Sri Ravi Kiran Rao, the learned counsel for the first respondent-workman.

The Corporation is aggrieved by the order dated 2.6.1998 for awarding wages of an amount of Rs. 60,000/- to the first respondent herein and two times of the said amount as compensation i.e. Rs. 1,20,000/-, in all Rs. 1,80,000/-.

The first respondent was appointed as Conductor in the petitioner-Corporation on 24.2.1984. Alleging misconduct, a show cause notice was issued, but without proceeding further, an order of dismissal dated 25.4.1984 was passed. Assailing the order of dismissal dated 25.4.1984, the first respondent filed Writ Petition No. 16674 of 1986. By the judgment-dated 29.11.1986, the Writ Petition was allowed and the order of dismissal was quashed and liberty granted to the petitioner-Corporation to conduct regular departmental enquiry, if it so chooses. The petitioner-Corporation did not conduct any such enquiry, but reinstated the first respondent into service on 28.3.1987. The first respondent represented to the employer for wages during the period he was out of service i.e. from 25.4.1984 till 27.3.1987. The employer by letter dated 14.10.1993 rejected the first respondent's claim for payment of wages for the period during his illegal dismissal.

Aggrieved by the unreasonable and illegal conduct of the petitioner, the first respondent approached the authority under the Payment of Wages Act, 1936 (for short 'the Act') for relief. This claim of the first respondent was entertained as PWC No. 13 of 1997.

The singular defence of the petitioner before the authority was that the first respondent's services in the category of Conductor were regularized with effect from 28.8.1995 as per the directions of this court in another Writ Petition filed by the first respondent viz., W.P.No. 5332 of 1991 and therefore, wages were paid only from the date of reinstatement and not earlier. The authority under the Act, rightly rejected this extravagant plea of the petitioner. Payment of wages is an independent component of service. As the first respondent was dismissed from service by an illegal order of the petitioner-Management, this Court in W.P.No. 16674 of 1986 quashed the order of dismissal. Consequently, the petitioner was entitled to be treated as having been continuously in service with effect from the date of his dismissal from such service and therefore, entitled to consequential salary and wages.

It is however seen that despite the judgment of this court declaring the invalidity of the order of dismissal dated 29.11.1986, the first respondent had approached the authority under the Act for salary in the year 1997. Therefore, there is some delay. But on account of such delay, the first respondent did not derive any additional advantage

nor the petitioner suffer any aggravated disadvantage, since the claim for wages was for a definite period i.e. 25.4.1984 to 27.3.1987. However, on account of the delayed lodgment of claim by the first respondent before the payment of wages authority, the authority ought to have been circumspect and exercised discretion to decline grant of further compensation. However, the Authority on an irregular exercise of discretion awarded twice the amount claimed as compensation. This is an unmerited benefit to the employee by Authority and does not accord with equity or justice.

The Writ Petition is therefore allowed. There is no infirmity in the order of the Authority granting Rs. 60,000/- as wages to the first respondent for the period he was illegally dismissed and was kept out of service. The grant of twice the amount towards compensation i.e., Rs. 1,20,000/- is however, unsustainable and is set aside. The petitioner shall expeditiously, preferably within a period of four weeks, pay to the first respondent the amount of Rs. 60,000/- if not already paid.

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GODA RAGHURAM, J

Date: 13.06.2007
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